

Message Text

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ORIGIN EUR-12

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DRAFTED BY EUR/EE:GTBOUTIN/RN
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EUR/EE:CWSCHMIDT
TREASURY:LPOTTS
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SC:TDEAL
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COMMERCE:SLOTARSKI
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TO AMEMBASSY WARSAW IMMEDIATE

C O N F I D E N T I A L STATE 165180

E.O. 11652:GDS

TAGS:ETRD, PL

SUBJECT:POLISH GOLF CARTS

REF: (A) WARSAW 4854 (B) STATE 061237

1. SUMMARY: THE ADDITIONAL INVESTIGATION WHICH TREASURY
UNDERTOOK AT THE INSISTENCE OF POLISH OFFICIALS HAS
TURNED UP INFORMATION WHICH ADVERSELY AFFECTS THE
POLISH POSITION. THE DUTIES ASSESSED FOR THE FIRST
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THREE QUARTERS OF 1976 NOW APPEAR TO BE ABOUT TWO HUNDRED
DOLLARS PER CART TOO LOW. THE CANADIAN SALES WHICH WERE
USED TO CALCULATE FAIR VALUE FOR THE LAST QUARTER OF 1976
TOOK PLACE AT LESS THAN COST OF PRODUCTION AND THEREFORE
CANNOT BE USED FOR THE PURPOSE OF ASSESSING DUTIES. WORST
OF ALL FROM POLES' STANDPOINT, HOWEVER, MARATHON HAS IN-
FORMED TREASURY THAT IT HAS BEEN OUT OF THE GOLF CART AND

UTILITY VEHICLE MANUFACTURING BUSINESS FOR SOMETIME AND IS PLANNING TO MOVE ITS FACILITIES TO THE US IN THE NEAR FUTURE. THEREFORE, IT APPEARS THAT US SELLING PRICE MUST BE USED FOR COMPARISON FROM JANUARY, 1976, ONWARD. TREASURY, CONTRARY TO SPASOWSKI'S INFORMATION (REF A), HAS NOT MADE A FINAL DECISION AND WILL NOT DO SO FOR SEVERAL WEEKS. MEANWHILE WE ARE LOOKING AT SOME POSSIBLE WAYS IN WHICH THE EFFECTS OF THE DECISION MIGHT BE MITIGATED BUT A LENGTHY

INTERAGENCY DISCUSSION WITH TREASURY ON JULY 12 MAKES THE PROGNOSIS AT THIS POINT APPEAR EXTREMELY PESSIMISTIC. END SUMMARY.

2. ON JULY 12 TREASURY OFFICIALS CONCERNED MET WITH REPRESENTATIVES OF STATE, COMMERCE AND NSC TO REVIEW THE RESULTS OF THE INVESTIGATION WHICH TREASURY RELUCTANTLY UNDERTOOK AT THE INSISTENCE OF THE POLISH DELEGATION THAT VISITED IN MARCH (SEE PARA 3 OF REF B). TREASURY CONFIRMED THAT THE ADDITIONAL INVESTIGATION HAD TURNED UP INFORMATION WHICH WAS DETRIMENTAL TO THE POLISH SITUATION FOR BOTH 1976 AND BEYOND. IT WAS POINTED OUT THAT TREASURY DAS SUCHMAN HAD CLEARLY AND REPEATEDLY WARNED THE POLES THAT EXACTLY THIS MIGHT HAPPEN. WHEN CUSTOMS INTERVIEWED THE PRESIDENT OF MARATHON HE TOLD CUSTOMS THAT MARATHON'S 1976 SALES WERE MADE FROM INVENTORY I.E. THE CARTS WERE PRODUCED BEFORE 1976, CONFIDENTIAL

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FURTHERMORE THAT SALES IN THE LAST QUARTER OF 1976 WERE AT PRICES BELOW COST OF PRODUCTION IN ORDER TO SAVE FURTHER CARRYING COSTS. THEREFORE, TREASURY CANNOT USE THE MARATHON PRICES FOR FOURTH QUARTER 1976 BECAUSE, BY LAW, TREASURY IS NOT PERMITTED TO USE ANY SALES AT LESS THAN COST OF PRODUCTION FOR DETERMINING FAIR MARKET VALUE. INSTEAD, IT MUST USE THE US SELLING PRICE. FURTHERMORE IT WAS REVEALED THAT ADDITIONAL ADJUSTMENTS HAD BEEN MADE IN PRICES CHARGED FOR THE FEW CARTS SOLD ABOVE COST OF PRODUCTION IN THE FIRST THREE QUARTERS OF 1976. THE DUTY LEVIED ON EACH CART IMPORTED DURING THE FIRST THREE QUARTERS OF 1976 WOULD THEREFORE HAVE TO BE RAISED FROM APPROXIMATELY THREE HUNDRED DOLLARS TO APPROXIMATELY FIVE HUNDRED. THE MARATHON OFFICIAL ALSO SAID THAT MARATHON IS NO LONGER PRODUCING GOLF CARTS OR THIS KIND OF UTILITY VEHICLE. THE POLES HAVE DISPUTED THIS LATTER CLAIM AND HAVE SENT TREASURY COPIES OF INVOICES DATED IN 1977 TO SUPPORT THEIR CLAIM THAT MARATHON IS STILL PRODUCING. THE SERIAL NUMBERS OF THE CARTS ON THE 1977 INVOICES INDICATE HOWEVER THAT THEY ARE FROM THE RMS SALE WHICH IS BELOW COST OF PRODUCTION AND WHICH HAD EARLIER BEEN USED TO JUSTIFY THE USE OF THE MARATHON PRICE FOR THE

LAST QUARTER OF 1976. 1977 INVOICES SUPPLIED BY POLES HAVE ALSO BEEN IDENTIFIED BY MARATHON OFFICIALS AS RECEIPTS FOR DELIVERIES OF UNITS ACTUALLY SOLD IN FOURTH QUARTER 1976. TREASURY THEREFORE SEES NO ALTERNATIVE BUT TO ACCEPT THE STATEMENT OF MARATHON'S PRESIDENT THAT THE COMPANY IS INDEED OUT OF PRODUCTION AND THAT LATE 1976 SALES WERE BELOW COST OF PRODUCTION.

3. TREASURY HAS NOT MADE A FINAL DECISION ON THIS CASE AND WILL NOT DO SO FOR THE NEXT SEVERAL WEEKS. FYI: THE FINAL DECISION WILL BE MADE BY SECRETARY BLUMENTHAL. END FYI

4. THERE ENSUED A LENGTHY DISCUSSION OF WAYS IN WHICH CONFIDENTIAL

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THE EFFECTS OF THIS DECISION MIGHT BE MITIGATED. WHILE VARIOUS POSSIBILITIES WERE DISCUSSED, INCLUDING ITC REVIEW OF THE INJURY DETERMINATION AND THE IDENTIFICATION OF OTHER THIRD COUNTRY SUPPLIERS, NO CONCLUSIONS WERE REACHED.

5. WITH RESPECT TO GOP'S MOST RECENT REQUEST FOR CONSULTATIONS AS RELAYED BY SPASOWSKI TO AMBASSADOR ON JULY 11, YOU MAY INFORM GOP THAT TREASURY OF COURSE DOES PLAN TO INFORM POLISH GOVERNMENT FULLY OF RESULTS OF ITS MOST RECENT INVESTIGATION AND OF THE CONCLUSIONS IT IS REQUIRED TO REACH AS A RESULT. HOWEVER, ADDITIONAL REVIEW IS REQUIRED FIRST AND CHANGE OF POLICY LEVEL PERSONNEL IN TREASURY MAY RESULT IN SOME ADDITIONAL DELAY. FURTHERMORE, AS ARMITAGE (EUR) WILL EXPLAIN TO EMBASSY DURING HIS JULY 21-26 WARSAW VISIT, AMBASSADOR TRAMPCZYNSKI WISHES TO HANDLE DISCUSSIONS WITH TREASURY HIMSELF, RATHER THAN THROUGH A GOP REPRESENTATIVE FROM WARSAW. VANCE

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